

RECEIVED

JUN 29 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

End User Common Line Charges

)  
)  
)  
)  
)  
)  
)

Docket No. 95-72

DOCKET FILE COPY ORIGINAL

COMMENTS OF TIME WARNER COMMUNICATIONS HOLDINGS, INC.

David R. Poe  
LeBoeuf, Lamb, Greene &  
MacRae L.L.P.  
1875 Connecticut Avenue, N.W.  
Suite 1200  
Washington, D.C. 20009  
(202) 986-8253

June 29, 1995

No. of Copies rec'd 219  
List A B C D E

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED  
JUN 29 1995  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

End User Common Line Charges

)  
)  
)  
)  
)  
)

Docket No. 95-72

DOCKET FILE COPY ORIGINAL

**COMMENTS OF TIME WARNER COMMUNICATIONS HOLDINGS, INC.**

Time Warner Communications Holdings, Inc. ("TW Comm"), through its undersigned attorneys, hereby submits comments in response to the Commission's Notice of Proposed Rulemaking in this Docket released May 30, 1995 ("NPRM").

**Interest of Time Warner Communications**

TW Comm is currently a local exchange service provider in Rochester, New York, and will soon be providing local services in New York City. TW Comm also has a certificate to provide local service pending approval in Ohio, with plans to be a national local service provider offering a full range of services to customers. Consequently, TW Comm plans to offer ISDN and other derived channel services in competition with local exchange companies. TW Comm's interstate tariff contains End User Access Service.<sup>1</sup>

**Summary of Position of TW Comm**

As an emerging provider of local services to both residential consumers and business customers, TW Comm supports

---

<sup>1</sup> Time Warner Communications Tariff FCC No. 2, Section 5.

the Commission's reexamination of its access charge policies as applied to ISDN. The balance between the Subscriber Line Charge ("SLC") and the Carrier Common Line Charge ("CCL") in the recovery of local loop Non-Traffic Sensitive ("NTS") costs is, as the NPRM recognizes, largely a function of history. Technological developments in recent years, such as ISDN, have made it possible to more efficiently utilize the local loop plant that the SLC and CCL, in combination, were designed to pay for. The fundamental issue is whether that more efficient plant utilization will upset the balanced cost recovery mechanism that exists today.

Thus far, there appears to be no empirical evidence of ISDN implementation operating to justify a change in Commission policy to shift NTS cost recovery to either the CCL or into usage based rates. In the absence of such evidence, and because of the likely small impact that changes in SLCs for ISDN will have on CCL rates, there is no justification at this time for applying SLCs for ISDN on a per equivalent line (or per derived channel) basis, or on a variant thereof. Instead, the Commission should adopt a per facility SLC for ISDN applications, thereby encouraging technological and new service development as well as more efficient utilization of the nation's existing infrastructure.

#### **Comments of TW Comm**

##### **1. Application of SLCs to ISDN on a Per Derived Channel Basis Is Unjustified.**

The proposal to apply SLCs to ISDN on a per derived channel basis would essentially apply a 1984 policy construct to

1995 events without any serious consideration to the effects either on cost recovery or on emerging services such as ISDN.

The application of SLCs on a per channel basis could have a chilling effect on demand. For example, TW Comm's digital PBX trunk offering in Rochester is offered on a channelized basis, and additional SLCs calculated on a per channel basis would add another 16 percent to the price of fully activated trunks. Also, it appears from TW Comm's review of LEC ISDN tariffs that the application of three end user charges could add 20-25 percent to the price charged to consumers.

Ultimately, these types of non-cost based loadings are self-defeating and unsustainable. Businesses will not pay many times the costs of providing the service and will either not use the new technology to its fullest and most efficient extent, or will seek other more cost-efficient ways to provide the service. As the Commission observed in the NPRM<sup>2</sup>, multiline business customers are already paying rates that reflect a greater proportion of NTS costs than the rates charged residential consumers.

The NPRM's analysis of the rate per line misses the point. The NPRM noted that a multiline business customer would pay up to \$6.00 per line under the current structure, while the equivalent charge per voice-grade channel would only be \$.25 if channelized services paid only \$6.00 per facility.<sup>3</sup> What the NPRM fails to recognize is that the \$6.00 charge represents the

---

<sup>2</sup> NPRM at ¶ 18.

<sup>3</sup> Id. at ¶ 26.

cost of a single-line while the \$6.00 per channel application would lead to charges many times in excess of the costs.<sup>4</sup>

## **2. Per Facility Application of SLCs To ISDN Is Reasonable**

Application of one SLC per facility would appear to be more equitable and cost-based. Stimulation of demand for ISDN and digital services, as well as service applications requiring such facilities would likely more than offset any revenue foregone by loss of additional SLC revenue. It is not certain whether decreases in SLC revenue would result in increases in the CCL rate (rather it is dependent on the relative levels of PCI changes and growth in minutes per access line). In addition, it is probable that very large decreases in SLC revenue will produce very small changes in the CCL rate. Particularly when considering the limited development to date of demand for ISDN and other services using derived channel technology, SLC revenues associated with such services would be rather small, resulting in CCL rate changes that are *de minimis*.

TW Comm suggests that there appears to be no empirical basis for concluding that a per facility application of SLCs will lead to CCL rate increases, and that this concern should not be one of the key drivers of the Commission's decision in this matter. Before making any decisions based on speculation as to CCL rate impacts, the Commission should study the likely effects for each of its proposals based on reasonable assumptions as to

---

<sup>4</sup> The same flaw, i.e. a mismatch between price and cost, is also attendant (albeit to a lesser extent) with many of the "intermediate" solutions suggested by the NPRM.

likely PCI changes, growth in minutes per access line, and changes in SLC revenue.

### **3. Intermediate Options**

The NPRM suggests various intermediate options to produce revenue in between the "per channel" and "per facility" applications. One such option would be to charge SLCs based on a ratio of derived channel loop costs to ordinary local loop costs.<sup>5</sup> This approach would include the cost of line and trunk cards in the costs of loops using derived channels, even though the Commission acknowledges that such costs are part of the local switching basket. This approach may be a viable option and is consistent with the Commission's historic cost-based rate requirements. There is no reason, however, for this approach to include cost-elements that are part of the local switching basket. The common line basket should recover only those costs associated with the elements assigned to that basket. Any cost ratio methodology adopted by the Commission, therefore, should include only those costs appropriate to the common line elements.

Including only the costs associated with the elements assigned to the common line basket when calculating the ratio of derived channel loop costs to ordinary local loop costs would probably produce a ratio much closer to one and, therefore, may not justify the production of cost studies. However, the Commission should not be too concerned with the effort necessary to "obtain and analyze" this cost data. Many of the LECs may already have this data readily available and the one-time

---

<sup>5</sup> NPRM at ¶ 27.

production of this data should not be overly burdensome. Ongoing production as part of the annual filing, however, would obviously be more burdensome and is an unnecessary requirement.

In sum, while the Commission's decision regarding the application of SLCs to ISDN is likely to have significant effects on the demand for ISDN and other derived channel services, there appears to be no evidence at this point to suggest that the effect on CCL rates, and hence interstate toll rates, would be significant.

Respectfully submitted,

**TIME WARNER COMMUNICATIONS  
HOLDINGS INC.**

By: Catherine P. McCarthy  
David R. Poe  
Catherine P. McCarthy

Its Attorneys

LeBoeuf, Lamb, Greene &  
MacRae L.L.P.  
1875 Connecticut Avenue, N.W.  
Suite 1200  
Washington, D.C. 20009  
(202) 986-8000  
(202) 986-8102 (Fax)

Dated: June 29, 1995